

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA

MARK A. FREGIA,

Plaintiff,

v.

YUCUI CHEN, et al.,

Defendants.

Case No. 1:20-cv-01024-ADA-EPG (PC)

ORDER DENYING PLAINTIFF'S MOTION
FOR EVIDENTIARY HEARING, STATUS
CONFERENCE, OR DEFAULT
JUDGMENT

(ECF No. 74)

Mark A. Fregia ("Plaintiff") is a state prisoner proceeding *pro se* and *in forma pauperis* in this civil rights action filed pursuant to 42 U.S.C. § 1983.

On January 31, 2023, Plaintiff filed a motion for an evidentiary hearing, status conference, or default judgment. (ECF No. 74). Plaintiff asks the Court to rule against the Warden of Mule Creek State Prison because he committed perjury. If the Court does not grant default judgment, Plaintiff asks the Court to put this issue on calendar for an evidentiary hearing and/or status conference. It appears that at this conference Plaintiff wants to introduce evidence of retaliation and excessive force by non-defendants after Plaintiff requested access to his documents. Plaintiff asks the Court to subpoena evidence for the hearing and to allow him to appeal any rulings on the issues addressed. Plaintiff also states that he believes his two pending cases should be settled for \$75,000.

Plaintiff's motion will be denied.

1 As the Court previously informed Plaintiff, “[t]o the extent Plaintiff is complaining about
2 retaliation after requesting access to his documents and about being found guilty of a Rules
3 Violation Report, a reply to the Warden’s response is not the appropriate time to raise these
4 allegations. If Plaintiff believes non-defendants have violated his civil rights, he may file
5 separate action(s) against those defendants.” (ECF No. 68, p. 2). Despite this warning, Plaintiff
6 appears to be attempting to litigate a civil rights action against non-defendants via this motion.
7 As discussed in the Court’s prior order, this is improper. Additionally, the Court cannot enter a
8 default judgment against the Warden because the Warden is not a party to this action. See, e.g.,
9 Fed R. Civ. P. 55. Accordingly, to the extent Plaintiff is attempting to litigate a civil rights action
10 against non-defendants via this motion, Plaintiff’s motion will be denied.

11 To the extent that Plaintiff is requesting a settlement, Plaintiff may write to defense counsel
12 to make a settlement offer. However, the Court will not order the parties to participate in a
13 settlement conference at this time.

14 Accordingly, based on the foregoing, IT IS ORDERED that Plaintiff’s motion for an
15 evidentiary hearing, status conference, or default judgment is DENIED.

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17 IT IS SO ORDERED.

18 Dated: February 1, 2023

/s/ Eric P. Grogan
19 UNITED STATES MAGISTRATE JUDGE
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